

25. As a result of this negligence, Plaintiff suffered damage in the amount of \$56,659.00.

**COUNT III**  
**NEGLIGENCE AGAINST BENEFIT STRATEGIES, LLC**

26. At all times relevant hereto, the Defendant Benefit Strategies LLC, had the duty and obligation to oversee the mapping process and proper transfer of funds from the MFS Funds to American Funds.
27. The Plaintiff reasonably relied on the expertise and advice of the Defendant, Benefit Strategies LLC to perform its obligations.
28. The Defendant negligently failed to perform its obligations.
29. As a result of this negligence, Plaintiff suffered damage in the amount of \$56,659.00.

**COUNT IV**  
**NEGLIGENCE AGAINST MICHAEL J. KENNEDY**

30. At all times relevant hereto, the Defendant Michael J. Kennedy, had the duty and obligation to oversee the mapping process and proper transfer of funds from the MFS Funds to American Funds.
31. The Plaintiff reasonably relied on the expertise and advice of the Defendant, Michael J. Kennedy to perform its obligations.
32. The Defendant negligently failed to perform its obligations.
33. As a result of this negligence, Plaintiff suffered damage in the amount of \$56,659.00.

**COUNT V**  
**NEGLIGENCE AGAINST SCOTT D. LAVALLEY**

34. At all times relevant hereto, the Defendant Scott D. LaValley, had the duty and obligation to oversee the mapping process and proper transfer of funds from the MFS Funds to American Funds.

35. The Plaintiff reasonably relied on the expertise and advice of the Defendant, Scott D. LaValley to perform its obligations.
36. The Defendant negligently failed to perform its obligations.
37. As a result of this negligence, Plaintiff suffered damage in the amount of \$56,659.00.

**COUNT VI**  
**INDEMNIFICATION FROM BALDWIN & CLARKE**

38. It was the duty, obligation and responsibility of Baldwin & Clarke to oversee the mapping process and proper transfer of funds from the MFS Funds to American Funds.
39. The Defendant failed to perform this obligation, whether by negligence, omissions or intentional conduct.
40. The damages resulting to the Plaintiff were caused by the failure of the Defendant.
41. The Defendant should indemnify the Plaintiff for the \$56,659.00 in damages it has suffered.

**COUNT VII**  
**INDEMNIFICATION FROM JEFFERSON PILOT SECURITIES**

42. It was the duty, obligation and responsibility of Jefferson Pilot Securities to oversee the mapping process and proper transfer of funds from the MFS Funds to American Funds.
43. The Defendant failed to perform this obligation, whether by negligence, omission or intentional conduct.
44. The damages resulting to the Plaintiff were caused by the failure of the Defendant.
45. The Defendant should indemnify the Plaintiff for the \$56,659.00 in damages it has suffered.

**COUNT VIII**  
**INDEMNIFICATION FROM BENEFIT STRATEGIES, LLC**

46. It was the duty, obligation and responsibility of Benefit Strategies LLC to oversee the mapping process and proper transfer of funds from the MFS Funds to American Funds.
47. The Defendant failed to perform this obligation, whether by negligence, omission or intentional conduct.
48. The damages caused to the Plaintiff were caused by the failure of the Defendant.
49. The Defendant should indemnify the Plaintiff for the \$56,659.00 in damages it has suffered.

**COUNT IX**  
**INDEMNIFICATION FROM MICHAEL J. KENNEDY**

50. It was the duty, obligation and responsibility of Michael J. Kennedy to oversee the mapping process and proper transfer of funds from the MFS Funds to American Funds.
51. The Defendant failed to perform this obligation, whether by negligence, omission or intentional conduct.
52. The damages caused to the Plaintiff were caused by the failure of the Defendant.
53. The Defendant should indemnify the Plaintiff for the \$56,659.00 in damages it has suffered.

**COUNT X**  
**INDEMNIFICATION FROM SCOTT D. LAVALLEY**

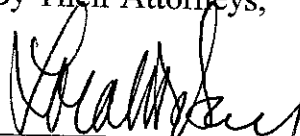
54. It was the duty, obligation and responsibility of Scott D. LaValley to oversee the mapping process and proper transfer of funds from the MFS Funds to American Funds.
55. The Defendant failed to perform this obligation, whether by negligence, omission or intentional conduct.

56. The damages caused to the Plaintiff were caused by the failure of the Defendant.
57. The Defendant should indemnify the Plaintiff for the \$56,659.00 in damages it has suffered.

**WHEREFORE**, Plaintiff prays that this Honorable Court enter the following relief:

- (a) Judgment be awarded to Plaintiff against each of the Defendants, together with interest and costs of this action;
- (b) Plaintiff be awarded reasonable attorneys' fees and costs; and
- (c) For such other and further relief as this Court may deem reasonable.

Respectfully Submitted,  
Pacific Packaging Products, Inc.  
By Their Attorneys,



Lora M. McSherry, Esq., BBO# 551695  
Herbert P. Phillips, Esq., BBO# 398420  
Phillips, Gerstein, Holber & Channen, LLP  
25 Kenoza Avenue  
Haverhill, MA 01830  
(978) 374-1131

Dated: April 9, 2004

**CIVIL ACTION  
COVER SHEET**

Case 1:04-cv-11102-MW Document 8-2 Filed 06/25/2004 Page 5 of 9

**Trial Court of Massachusetts  
Superior Court Department  
County: Middlesex**



**04-1576**

PLAINTIFF(S)  
Pacific Packaging Products, Inc.

DEFENDANT(S)  
Baldwin & Clarke, Jefferson Pilot,  
Benefit Strategies LLC, Michael J. Kennedy  
and Scott D. LaValley  
ATTORNEY (if known)

ATTORNEY FIRM NAME, ADDRESS AND TELEPHONE  
Lora M. McSherry, BBO# 551695 (978) 374-1131  
Herbert P. Phillips, BBO# 398420  
Phillips, Gerstein, Holber & Channen LLP  
Board of Bar Overseers number:  
25 Kenoza Ave., Haverhill, MA 01830

**Origin code and track designation**

Place an x in one box only:

- ☒ 1. F01 Original Complaint  
☐ 2. F02 Removal to Sup.Ct. C.231,s.104  
(Before trial) (F)  
☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

- ☐ 4. F04 District Court Appeal c.231, s. 97 &104 (After trial) (X)  
☐ 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)  
☐ 6. E10 Summary Process Appeal (X)

**TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)**  
CODE NO. TYPE OF ACTION (specify) TRACK IS THIS A JURY CASE?

D06 Indemnification (F ) ( ) Yes ( ) No

**The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.**

**TORT CLAIMS**

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

- |  |          |
|--|----------|
| 1. Total hospital expenses .....         | \$ ..... |
| 2. Total Doctor expenses .....           | \$ ..... |
| 3. Total chiropractic expenses .....     | \$ ..... |
| 4. Total physical therapy expenses ..... | \$ ..... |
| 5. Total other expenses (describe) ..... | \$ ..... |

B. Documented lost wages and compensation to date .....

C. Documented property damages to date .....

D. Reasonably anticipated future medical and hospital expenses .....

E. Reasonably anticipated lost wages .....

F. Other documented items of damages (describe) .....

G. Brief description of plaintiff's injury, including nature and extent of injury (describe) .....

TOTAL \$ .....

**CONTRACT CLAIMS**

(Attach additional sheets as necessary)

Provide a detailed description of claim(s): The Defendants were hired based on their expertise and knowledge to act in various capacities for the Plaintiff, who was Trustee of the Pacific Packaging Products, Inc. 401K Plan. Due to the negligence of the Defendants to perform their duties and responsibilities, the Plaintiff has been damaged.

TOTAL \$ 56,659.00...

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE: 4/9/04

Commonwealth of Massachusetts  
MIDDLESEX SUPERIOR COURT  
Case Summary  
Civil Docket

MICV2004-01576

**Pacific Packaging Products, Inc. v Baldwin & Clarke Advisory Services, Inc. et al**

<b>File Date</b>	04/14/2004	<b>Status</b>	Disposed: transfered to other court (dtrans)
<b>Status Date</b>	06/17/2004	<b>Session</b>	A - Cv A (12A Cambridge)
<b>Origin</b>	1	<b>Case Type</b>	D06 - Contribution/indemnification
<b>Lead Case</b>		<b>Track</b>	F

<b>Service</b>	07/13/2004	<b>Answer</b>	09/11/2004	<b>Rule12/19/20</b>	09/11/2004
<b>Rule 15</b>	09/11/2004	<b>Discovery</b>	02/08/2005	<b>Rule 56</b>	03/10/2005
<b>Final PTC</b>	04/09/2005	<b>Disposition</b>	06/08/2005	<b>Jury Trial</b>	Unknown

**PARTIES**

**Plaintiff**

Pacific Packaging Products, Inc.  
24 Industrial Way  
Active 04/14/2004

**Private Counsel 551695**

Lora M McSherry  
Phillips Gerstein Holber & Channen  
25 Kenoza Avenue  
Haverhill, MA 01830  
Phone: 978-374-1131  
Active 04/14/2004 Notify

**Private Counsel 398420**

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Fax: 978-372-3086  
Active 04/14/2004 Notify

**Private Counsel 551695**

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Haverhill, MA 01830  
Phone: 978-374-1131  
Active 06/17/2004 Notify

**Defendant**

Baldwin & Clarke Advisory Services, Inc.  
Coldstream Park  
116 B South River Road  
Served: 05/03/2004  
Served (answr pending) 05/03/2004

**Private Counsel 243660**

John D Hughes  
Edwards & Angell  
101 Federal Street  
Boston, MA 02110  
Phone: 617-439-4444  
Fax: 617-439-4170  
Active 06/17/2004 Notify

MIDDLESEX SUPERIOR COURT

Case Summary

Civil Docket

06/18/2004

11:12 AM

MICV2004-01576

Pacific Packaging Products, Inc. v Baldwin & Clarke Advisory Services, Inc. et al

**Defendant**

Jefferson Pilot Securities Corporation  
One Granite Place  
Served: 05/03/2004  
Served (answr pending) 05/03/2004

**Defendant**

Benefit Strategies LLC  
1750 Elm Street  
Suite 302  
Served: 05/03/2004  
Served (answr pending) 05/03/2004

**Defendant**

Michael J. Kennedy  
116B South River Road  
Served: 05/03/2004  
Served (answr pending) 05/03/2004

**Private Counsel 637212**

Mark B. Dubnoff  
Edwards & Angell  
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Fax: 617-439-4170  
Active 06/17/2004 Notify

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Active 06/17/2004 Notify



Commonwealth of Massachusetts  
MIDDLESEX SUPERIOR COURT

Case Summary  
Civil Docket

MICV2004-01576

Pacific Packaging Products, Inc. v Baldwin & Clarke Advisory Services, Inc. et al

**Defendant**

Scott D. LaValley  
116B South River Road  
Served: 05/03/2004  
Served (answr pending) 05/03/2004

**Private Counsel 637212**

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Phone: 617-439-4444  
Fax: 617-439-4170  
Active 06/17/2004 Notify

ENTRIES

Date	Paper	Text
04/14/2004	1.0	Complaint & civil action cover sheet filed
04/14/2004		Origin 1, Type D06, Track F.
05/11/2004	2.0	SERVICE RETURNED: Michael J. Kennedy(Defendant) 05/03/04 by certified mail return receipt attached, Baldwin & Clarke Co., 116B South River Road, Bedford, MA
05/11/2004	3.0	SERVICE RETURNED: Scott D. LaValley(Defendant) 05/03/04 by certified mail return receipt attached, Baldwin & Clarke Co., 116B South River Road, Bedford, MA
05/11/2004	4.0	SERVICE RETURNED: Jefferson Pilot Securities Corporation(Defendant) 05/03/04 by certified mail return receipt attached, Timothy L. Stickney, agent, One Granite Place, Concord, NH 03301
05/11/2004	5.0	SERVICE RETURNED: Paul G. Smith agent of Benefit Strategies LLC(Defendant) 05/11/04 by certified mail return receipt attached, 53 Lesngh Road, Goffstown, NH 03045
05/11/2004	6.0	SERVICE RETURNED: John J. Clarke, Jr., Baldwin & Clarke Advisory Services, Inc.(Defendant) 05/03/04 by certified mail return receipt attached, Baldwin & Clarke Co., 116B South River Road, Bedford, MA
06/17/2004	7.0	Case REMOVED this date to US District Court of Massachusetts by defts Baldwin & Clarke, et al
06/17/2004		ABOVE ACTION THIS DAY REMOVED TO US DISTRICT COURT



